

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #1, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT A CELL SITE LOCATED)	
AT 3400 COLEMAN ROAD, NORTHEAST OF THE)	CASE NO. 96-559
JUNCTION OF I-24 AND U.S. 60, IN THE CITY OF)	
PADUCAH, MCCRACKEN COUNTY, KENTUCKY)	
(WEST PADUCAH MALL SITE))	

O R D E R

On December 3, 1996, Kentucky RSA #1, Inc. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 1 ("RSA No. 1"). RSA No. 1 includes Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken counties. Kentucky RSA #1, Inc. has requested authorization to construct a cell site in McCracken County. Kentucky RSA #1, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 1 in Case No. 94-397.¹

The proposed cell site consists of a 140-foot or less monopole antenna tower to be located at 3400 Coleman Road, northeast of the junction of I-24 and U.S. 60, in Paducah,

¹ Case No. 94-397, The Joint Application of Telephone and Data Systems, Inc., an Iowa Corporation, Kentucky RSA #1, Inc., a Kentucky Corporation, PC Cellular of Kentucky, L.P., a Delaware Limited Partnership, Equicell of Kentucky, Inc., a Delaware Corporation, PC Cellular, Inc., a Delaware Corporation, and George L. Schrenk for the Approval of the Acquisition of all Partnership Interest in PC Cellular of Kentucky, L.P. by Kentucky RSA #1, Inc., and for Establishment of Initial Tariffs Describing Conditions of Service.

McCracken County, Kentucky ("the West Paducah Mall site"). The coordinates for the West Paducah Mall site are North Latitude 37° 05' 09" by West Longitude 88° 40' 40".

Kentucky RSA #1, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the West Paducah Mall site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the West Paducah Mall site's construction is exempt from local zoning ordinances; however, Kentucky RSA #1, Inc. notified the McCracken County Judge/Executive of the pending construction. Kentucky RSA #1, Inc. has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the West Paducah Mall site. The FAA application is pending while the KAZC has determined that the monopole is exempt from its regulation.

Kentucky RSA #1, Inc. has filed notices verifying that each person who owns property or who resides within 500 feet of the West Paducah Mall site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed West Paducah Mall site for at least two weeks after Kentucky RSA #1, Inc.'s application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To

assist the Commission in its efforts to comply with this mandate, Kentucky RSA #1, Inc. should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Kentucky RSA #1, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #1, Inc. should be granted a Certificate of Public Convenience and Necessity to construct and operate the West Paducah Mall site in RSA No. 1 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #1, Inc. is granted a Certificate of Public Convenience and Necessity to construct and operate the West Paducah Mall site.
2. Kentucky RSA #1, Inc. shall file a copy of the final decision regarding the pending FAA application for this cell site's construction within 10 days of receiving this decision.
3. Kentucky RSA #1, Inc. shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 5th day of February, 1997.

PUBLIC SERVICE COMMISSION

Spida K. Breathitt
Chairman

Edwin J. Kline
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director